

## Impediments to the Advancement of Human Rights by the ZHRC in Zimbabwe

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**Abstract:** Zimbabwe as a member of the United Nations (UN) ratified a number of human rights treaties and the establishment of the much awaited Zimbabwe Human Rights Commission (ZHRC) which was long overdue was a generally welcome development in the human rights arena. The ZHRC is a National Human Rights Institution (NHRI) established by the Constitution of Zimbabwe (No.20) Act 2013. The Constitution mandates ZHRC to promote, protect and enforce human rights and fundamental freedoms enshrined under the Bill of Rights. The operational legal framework of the ZHRC is provided for in the Zimbabwe Human Rights Commission Act [Chapter 10:30]. In collecting data questionnaires, interviews and documentary review were used. Against this backdrop, the paper mainly seeks to explore and analyse the challenges faced by the ZHRC in executing its mandate. Methodologically, the study relied extensively on available literature and reports. The study revealed that the ZHRC has been impeded by resource constraints, absence of legally binding laws, hostile political environment and lack of state compliance experiencing impediments which have affected its operation. The therefore study made some recommendations to help fortify and reinvigorate the ZHRC.

**Keywords:** Human Rights, National Human Rights Institutions, Challenges, Impediments, Zimbabwe Human Rights Commission.



## 1. Introduction

The UN obliges states to advance universal respect for, and observance of human rights and fundamental freedoms for all people without dissimilarity as to race, sex, language and religion. Most states in the last four decades have signed, ratified or acceded to several core human rights treaties negotiated over the past sixty years under the auspices of the UN. Zimbabwe is one of the African countries that subscribed to the human rights protection and promotion as per the UN requisite. In spite of the growing number of important international human rights treaties, there remained a need to creating effective local human rights monitoring mechanisms to complement international mechanisms. This paved way for, and rationalised, the establishment of NHRIs in various states. Over the past two decades NHRIs have developed in every continent and sub region of the world, and in dozens of democratic and undemocratic countries alike [1].

NHRIs are becoming influential in the transmission of human rights norms into domestic systems and ensuring that states comply with global standards. Zimbabwe's deteriorating human rights situation led to the establishment of a specialised national human rights institution with a mandate to protect, promote and enforce human rights.

The ZHRC was created by the Global Political Agreement (GPA) which was signed by the Zimbabwe African National Union – Patriotic Front (ZANU-PF) and two Movement for Democratic Change (MDC) formations in 2008 and was given effect by Constitution Amendment 19 of the former Constitution, and established by the new Constitution of Zimbabwe Amendment (No.20) Act 2013 [2]. The ZHRC became functional on the 31st of March 2010 when the late former head of state and government, Robert Mugabe, appointed the Chairman and other members of the Commission. The ZHRC was fully operationalised in 2012 after the enabling legislation was passed.

## 2. Conceptualising National Institutions

The study adopted an institutional framework approach linking it to the operation of NHRIs. The International Ecological Engineering Society [3] defined the institutional framework as a set of formal organisational structures, rules and informal norms for service provision. According to specific institutional frameworks should be established to support a robust corporate governance framework [4] [5].

The hypothesis behind the institutional framework approach is that the gradation of political consensus behind establishing such an institution which include elements such as political independence, autonomy in decision-making procedures, the professional approach to analyse human rights standards and national issues, the content of the mandate and powers of the institutions, the constituency and stakeholders behind and the actual size and capacity is pivotal for the achievements to be obtained by national institutions [6]. There is a strong link between a thoroughly considered institutional framework and the output and impact of such an institution. The institutional framework is the foundation for creating and running national institutions.

### 2.1. National Human Rights Institutions

The speed at which NHRIs have moved from the margin to the central arena of human rights politics is largely unprecedented [1]. There is no single or universally accepted definition for NHRIs as they take various forms. Pohjolainen [7] defined NHRIs as permanent and independent bodies established by governments for the specific purpose of promoting and protecting human rights at national level.

According to the United Nations [8] NHRIs are mechanisms put in place by the state to advance human rights, and though funded by the state there are independent of it. NHRIs have become an increasingly prominent player in the human rights arena [9]. Mayrhofer [10] states that monitoring of the human rights situation at the national level is one of the central responsibilities of NHRIs.

### 2.2. Paris Principles

The Paris Principles are generally considered as the universal minimum standards which strengthen and provide a benchmark for the work of NHRIs [7]. Important aspects such as the role, composition, status, methods of operation, and functions of NHRIs are all defined in the Paris Principles. There also set out the minimum standards required by NHRIs to be considered credible and to operate effectively. Drawing on the Paris Principles over 110 countries around the world have setup NHRIs [9]. The International Coordinating Committee of National Institutions for the Promotion and

Protection of Human Rights (ICC) is the body authorised with the responsibility of assessing the level of compliance with the Paris Principles by NHRIs [11].

The ICC accord a status ranging from A-C depending on level of compliance or non-compliance. According to the ICC status; A - denotes full compliance, Status B - partial compliance and Status C - non-compliance. It should be noted that NHRIs with an A status enjoy the privilege of having speaking rights under all agenda items of the ICC. Chiduzza [12] purports that the Paris Principles provide the yardstick against which all NHRIs are assessed and accorded a status by the International Coordinating Committee Sub-Committee on Accreditation (ICC SCA).

### **3. Country Experiences**

The protection and promotion of human rights is not a fixed state to be achieved prior to or immediately after the ratification of international instruments, but a continuing and challenging enterprise [13].

Below are some reviews of the experiences of the Uganda Human Rights Commission (UHRC) and South African Human Rights Commission (SAHRC).

#### **3.1. Uganda Human Rights Commission**

The origins of UHRC are traceable to Uganda's long civil wars stemming from social and political chaos, and a dismal human rights record in the decades before the 1986 forced takeover of power by the National Resistance Movement (NRM) of President Yoweri Museveni's after the long bush war [1]. The UHRC was established and entrenched in Articles 51 to 59 of the Constitution of Uganda of 1995. The institution became functional in November 1996 and was later provided for in more detail by the UHRC Act No. 4 of 1997. To date, the institution has done exceptionally well in protecting and promoting human rights in Uganda. The UHRC's literature announces the institution's compliance with the Paris Principles and this self-assessment appears credible given the UHRC's grade "A" rating by the ICC [1].

The UHRC has managed to carve a specific niche for itself in its bravery in advancing human rights in Uganda [14]. Although the UHRC is assured financial autonomy, the government constantly underfunds the institution [15]. This has forced the Commission to heavily depend on funding from development donor partners. Matshekga [15] states that the process of appointment of Commissioners is done in secrecy, and the exclusion of the civil society and NGOs from the appointment process is deplorable. Moreover, questions have been raised on the Commissioner's term of office, another aspect shrouded in secrecy.

#### **3.2. The South African Human Rights Commission**

The SAHRC is an independent constitutionally entrenched state institution supporting constitutional democracy. The origins of the SAHRC and the impetus for its establishment can be traced to the end of the apartheid regime in South Africa and the strong desire of the new African National Congress (ANC) leadership to build institutions that would in the future help secure human rights of its long brutalized citizenry [1]. The SAHRC was first established in 1995 when the Human Rights Commission Act No. 54 of 1994 [16] came into force. Chapter nine of the final constitution of 1997 confirmed SAHRC's position as one of the bodies supporting constitutional democracy in South Africa. The SAHRC is charged with the responsibility to respect, protect, promote, monitor and fulfil the rights contained in the Bill of Rights. The SAHRC enjoys "Grade A" status at the ICC of NHRIs [1].

The very first challenge that the SAHRC was going to experience from the onset was wide expectations on the Commission from the population the reason being the very nature of the South African society and its history [14]. In spite of the good work that was done by the SAHRC in its early years of existence, the Commission was criticised for focusing on the softer human rights issues thus, ignoring issues with major relevance in the country [15]. The SAHRC has been criticised by many human rights activists for its alleged failure to promote human rights awareness in South Africa and deal with societal problems such as xenophobia. Irrespective of the political consensus surrounding the appointment of the Commissioners of the SAHRC in 1995, human rights activists expressed fierce criticism of the practicalities of the procedure and the politicised nature of the process [15]. Regardless of the challenges faced by the SAHRC it remains one of the most respected NHRIs in the continent.

#### **4. The Zimbabwe Human Rights Commission**

The ZHRC is one of the five Chapter 12 independent Commissions supporting and entrenching human rights and democracy, which are established in terms of section 232 of the Constitution of Zimbabwe Amendment (No. 20) Act, 2013 [2] as amplified by the ZHRC Act. The ZHRC further finds expression in terms of section 242 of the Constitution of Zimbabwe and its functions are dealt with under section 243 as well as in the ZHRC Act. Regardless of the existence of the ZHRC the respondents expressed their dissatisfaction about the work of the Commission. In this scenario, it can be argued that the establishment of the ZHRC which acts as a human rights watchdog is a welcome development in the political human rights arena but its existence as a defender of human rights is still being questioned. There are a lot of irregularities surrounding the establishment of the ZHRC [17]. For instance the ZHRC has not yet fully complied with some sections of the Paris Principles such as operational and financial independence. Questions have been raised on whether the ZHRC is serving the interest of the citizens or it is just an extension of the government. To this effect, the impediments to the successful functioning of the ZHRC will be explored.

#### **5. Challenges faced by the Zimbabwe Human Rights Commission**

The ZHRC has been dogged by a myriad of challenges that include on the administrative front resource constraints, inadequate staff, centralisation, inaccessibility and invisibility, misconception and mistrust towards the ZHRC, lack of political will, delays and hostile political environment, political environments, the absence of legally binding sanctioning powers.

##### **5.1. Resource Constraints**

The government budgetary allocation for the ZHRC is too low for it to execute all its duties. In this scenario, the Commission fails to investigate cases on time which require urgent investigations and sometimes fail to investigate certain cases at all. Similarly, it can be argued that the ZHRC does not generate any income, and it solely relies on the government for its budgetary requirements. The economic crisis in the country has made it practically impossible for the government to adequately fund all the operations of the Commission [17]. This has immensely affected all state funded institutions [18] [19] [20]. Apart from the government the ZHRC has been receiving funds from development donor partners such as the United Nations Development Programme (UNDP) and the Danish Institute for Human Rights (DIHR). However, the funds are not adequately meeting up all the operational costs of the Commission.”

According to the ZHRC Annual Report [21] budgetary constraints have been a major challenge affecting the work of the Commission. Langa [22] reported that the ‘ZHRC might fail to meet some of its mandate, after Government allocated a paltry US\$1, 2 million to the Commission for the year 2016 aimed at ensuring observance of human rights in Zimbabwe’. The ZHRC had requested US\$6, 3 million.

According to Langa [22] the amount allocated to the ZHRC is inadequate to meet its mandate of paying staff, investigating cases of human rights abuses, as well as to perform other duties that the Commission is mandated to perform by the Constitution. 45% of the respondents stated that the ZHRC was receiving funds via the Ministry of Justice, Legal and Parliamentary Affairs (MoJLPA). This arrangement made the Commission to experience financial challenges during its formative years [23]. However, it attained vote status as per Constitutional provisions. The Commission is now receiving funds directly from the Treasury instead as a sub-vote via the MoJLPA. The Paris Principles require NHRIs to be independent in terms of resources at its disposal because it must have an adequate budget to support its operations [23] [24].

The ZHRC Annual Report [25] states that the budget allocation and the ZHRC Act [26] do not take into consideration the Public Protector’s responsibilities that were added to the ZHRC by the new Constitution that was adopted in May 2013. Chiduzo [12] opines that such challenges have had a negative impact on the Commission with the then Chairperson of the ZHRC, Commissioner Austin, resigning and citing operational challenges including lack of staff, office space, and the absence of political will. At the time of his resignation Commissioner Registrar Austin also stated that the Commission had no budget, no accommodation, no mobility, and no staff. The ZHRC came into being without any enabling legal framework, no budget, infrastructure or secretariat. According to the ZHRC Annual Report [20], the Commission during the reported period was consistently underfunded. Out of a realistic budget estimate of \$6, 497, 363.00, the Commission was allocated support

amounting to \$2, 018, 000.00 of which \$400, 000.00 was for Capital Expenditure (Capex). However, for the entire year, the Commission only received actual subventions amounting to total of \$773, 118 of this subvention, only \$75, 000 was for Capex and 213, 333 for operational expenditure (a pittance for an institution undergoing set-up costs), the balance going towards salaries. For an institution at its inception stage, this meant that from a financial perspective the Commission was set up to fail. That it did not fail can be attributed to a great extent to development partners' support and to Commissioners and staff who expended their energy beyond the call of duty to ensure that any adverse outcome did not occur to the detriment on the image of the country.

To further compound this problem, there are strict bureaucratic procedures before development donor funds are secured. The Minister's approval which is a requirement before donor funds can be allocated to the ZHRC is a burden when accessing donor funds [12]. This goes against the recommendations of the International Coordinating Committee Sub Committee on Accreditation (ICC-SAC) which is of the view that NHRIs should not be required to obtain approval for external sources of funding as this requirement may pose a threat to its independence. In this scenario, the donor support from the United Nations Development Programme, European Union (EU) and Danish Embassy has done little to ameliorate the dire financial situation affecting the institution. Additionally, the development donor partners mainly fund projects that they have prioritised in their budgets. In addition to funding their projects some of the key development donor partners such as DIHR and UNDP were either pulling out or reducing funds thus worsening the financial woes at the ZHRC.

## 5.2. Inadequate Staff

The ZHRC has been marred by an inadequate staff complement due to limitations in the approved ZHRC structure and the current freeze on vacant posts in the public sector. The Commission opened the year 2014 with two members of staff of the secretariat and eight Commissioners [20]. Recruitment was conducted from the month of February 2014 and by December of the same year, the complement was at fifty. However, recruitment to attain the full complement was hampered by the unavailability of Treasury concurrence approval and support owing to the persisting financial challenges confronting the economy [20]. The total complement for Commissioners is nine and that of the secretariat is fifty five.

According to Langa [22] the then Chairperson of the ZHRC, Dr Elasto Hilarious Mugwadi, stated that the staffing levels were below normal to an extent that the Commission had only 18 human rights officers when it needed 120 of them. Chiduzo [12] opines that due to lack of resources there have been reports that the Treasury has at times failed to pay the salaries of Commissioners and staff on time. To this effect, it was established that there is no exact formula when staff will be paid [22].

According to the ZHRC Baseline Survey [26] all the ZHRC Commissioners should be appointed on a full-time basis. However, because of financial constraints faced by the ZHRC, the Chairperson and one of the Commissioners (deputy Chairperson) should be appointed on a full-time basis. The ZHRC Annual Report [21] highlighted that the staff of the Commission is demoralised due to poor remuneration, which is often paid very late. It was also stated in the report that for the great part of the year the Commission was suspended from Medical Aid services by CIMAS due to non-payment of subscriptions.

The ZHRC spent the year still negotiating the issue of pension and insurance scheme for staff members as well as making piecemeal remittances of contributions to the National Social Security Authority (NSSA) fund [21]. The Commission recorded a relatively high staff turnover during 2015 at 19% [21]. It further highlighted that the loss of staff was mainly ranging from the professional grades to executive management level. It was also noted that in 2015 the ZHRC lost its first Executive Secretary Ms. Jester Helena Charewa who was appointed to the High Court bench. Since January 2015, the Commission lost 15 members of staff and when these posts fall vacant there are subject to the job freeze [22]. The high attrition rate was due to the uncompetitive remuneration structure including failure by the Commission to honour its contractual obligation of timely remittance of wages by the end of the month. The ZHRC Annual [20] indicated that the conditions of service of staff fall short of similar institutions, and are not competitive even within the national context. The ZHRC Annual Report [21] highlighted that the establishment of the Commission by the close of 2015 stood at 75% of the total approved complement.

The Commission staff complement stood at forty (40) as of December 2015. The approved structure of fifty five (55) is grossly inadequate for an institution with a dual mandate operating at a national level.

Table 1. Total Number of Employees by Gender at the Zimbabwe Human Rights Commission

FEMALE			MALE	
	PE	CE	PE	CE
<b>Programmes</b>	10	0	6	0
<b>Administration</b>	13	0	12	0
<b>Projects</b>	0	1	0	4
<b>Interns</b>	0	2	0	2
<b>Total</b>	<b>23</b>	<b>3</b>	<b>18</b>	<b>6</b>

*Source:*

*PE-Permanent employees; CE-Casual Employees [21].*

Failure to fill vacant posts makes the already bad situation worse, and the structure also has glaring gaps in terms of some key roles and skills [21]. The ZHRC should have a more diverse staff population.

### 5.3. Centralisation, Inaccessibility and Invisibility

ZHRC has failed to decentralise to provinces and districts as articulated in Section 22 of the ZHRC Act [26]. The Commission's target was to establish an office in each province by the year 2020 [27]. The Commission only managed to establish two regional offices, one in Harare and the other in Bulawayo. Each regional office serves 5 provinces. 95% of the respondents stated that the ZHRC has limited capacity in terms of facilities and equipment to deliver its mandate. As a result of limited funds the Commission has failed to swiftly respond to and visit areas where there are suspected human rights abuses, and to visit more places of detention and monitoring all elections as mandated by the constitution. Financial constraints are making it difficult for the Commission to increase its accessibility. The fact that the former Chairperson of the ZHRC, Reg Austin, pointed out to lack of resources for the institution as one of his reasons for resigning, gives a bigger picture of the challenges that await the ZHRC with regards to it being an accessible public institution [12]. In 2016 residents in Mashonaland East province appealed to the ZHRC to decentralise its operations and establish branches in different districts in order to reach ordinary Zimbabweans [28]. To this effect, Munguma [23] opined that the ZHRC needs to improve its level of accessibility by opening more offices at provincial and district level.

### 5.4. Limited Participation in International and Regional Forums

The ZHRC was also heavily affected by the limited participation of the Commission in regional and international fora which capacitate NHRIs in executing their mandates in their respective countries. It was observed that there is limited participation of the ZHRC in regional and international human rights forums which are coordinated by institutions such as the Office of the Higher Commissioner for Human Rights (OHCHR), Global Alliance of National Human Rights Institutions (GANHRI) and Network of African National Human Rights Institutions (NANHRI). Such meetings of high magnitude are important in capacitating NHRIs, and thereby allow multilateral engagements and dialogues in dealing with human rights issues at regional and international level."

However, it can be noted that there are some stakeholder organised meetings, training workshops and seminars including the Universal Periodic Review (UPR) and ICC aimed at capacitating not only the ZHRC but also its members. According to the ZHRC Annual Report [21] training courses for employees of NHRIs are critical in building capacity of human rights practitioners. The ZHRC had

the opportunity of participating at the 9th Biennial Conference of the NANHRI from the 27th to the 29th of November 2013. From the 10th - 23rd of January 2015 members of senior staff of the Commission undertook a 15 day learning visit to the DIHR in Copenhagen, Denmark (ZHRC Annual Report, 2015). The tour was, foremost, a strategic revision and planning platform to produce the work plan and budget for the DIHR/Norway capacity building project. On the 11th to the 15th of May 2016 two members of the ZHRC secretariat went to Uganda for a five day learning visit with the UHRC. On the 23rd to the 27th of November 2015 two ZHRC secretariat officers represented the Commission at the Regional Course for African NHRIs held in Nairobi, Kenya. This was a foundation course aimed at capacitating junior level employees of NHRIs to enhance their understanding of human rights issues.

### **5.5. Misconception and Mistrust**

There is still a misconception by the outsiders about the Commission which they confuse with civil society organisations thus, making it extremely difficult for the ZHRC to penetrate certain areas and institutions which in most cases are suspicious of its work. The people who can help make the Commission wholly independent are suspicious of it and the absence of proper engagement procedures is worsening the whole situation. Furthermore, majority of the people including those who work in the government are not fully aware of the existence of the Commission. To this effect, people tend to confuse the ZHRC with Civil Society Organisations (CSOs) such as the Zimbabwe Lawyers for Human Rights (ZLHR) and Zimbabwe Human Rights Association (ZIMRIGHTS). Through a number of out reaches and workshops the ZHRC has managed to distinguish itself from CSOs.

### **5.6. Lack of Political Will, Delays and Hostile Political Environment**

The ZHRC is also dogged by lack of political will and delays by relevant authorities on investigations of human rights abuses which subsequently delays the conclusion of reports being dealt with by the ZHRC. ZHRC in most cases was delayed or denied access to monitor certain institutions or places. It was mentioned that the problem seems to remain as illustrated by the behaviour of the police, prison officials and other government authorities who tend to hamper the operational efficiency of the ZHRC. It is the presence of a hostile political environment which result in relevant authorities not being accountable and answerable to the human rights situation in the country. The ZHRC Annual Report [21] states that the mandate to handle complaints has been haunted by challenges, chief among them being lack of responses from government departments. Lack of political is slowing down effective operation of the ZHRC. Such practices lead people to conclude that the ZHRC was only established for window dressing purposes. The ZHRC has been silent on critical issues thus, its existence is questioned. As a result of a hostile political environment, it was stated that there has been resistance by some local officers to the members of the Commission to access communities; and even to access key institutions like prisons, police cells, hospitals and mental institutions.

### **5.7. Political Appointments**

The ZHRC is also affected by political interference which permeates the appointment processes of the ZHRC, particularly the senior posts. It is one thing to have powers to make decisions and another thing to fully exercise those powers. What enables the appointed members of a NHRI to exercise the powers bestowed upon them that are in the act is the political culture of their environment (Khan, 2010). If the political culture does not guarantee them the power to exercise those powers, then it does not matter what the statute says because the appointed members will not be able to do that. Section 242 (1) (b) of the Constitution states that other eight Commissioners of the ZHRC are appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders. Thus, giving absolute power to the President. In this vein, the independence of the Commission might be compromised in the event that the President is given too many powers. Moreover, the procedure of appointing the Chairperson of the ZHRC gives less participatory role to Non-Governmental Organisations (NGOs) and the civil society, and give too much powers to the President. The absence of extensive consultation of NGOs and civil society in the appointment process is a clear indication that the impartiality of the appointment procedure is compromised. The appointment process particularly with regards to the appointment of the Chairperson of the ZHRC raises questions about the impartiality of the processes. The President is given too many powers in the appointment of the Chairperson [12]. There is a likelihood that such powers might be used to appoint

individuals that may be partisan and who will support the ideologies of the ruling party and interfere with the independence of the Commission. There are also concerns about the involvement of the President in the removal process. Chiduzo [12] argued that political considerations may play a part in the removal of Commissioners.

### **5.8. Absence of Legally Binding Sanctioning Powers**

The ZHRC has also been affected by the lack of substantive legally binding prosecutorial and sanctioning powers. The ZHRC is only mandated to make investigations and recommendations on human rights violations thus revealing the absence of legally binding powers. In this vein, the Commission has been referring individuals seeking redress and legal representation to CSOs and Legal Aid Directorate amongst them, the ZLHR and NGO-Forum. The ZHRC is seeking legal powers to make binding decisions on those found guilty of violating people's rights either individual or institutions [29]. According to the ZHRC Annual Report [21] the Commission may be seized with cases wherein violations have occurred but it may not have jurisdiction to handle the cases in question; or where, due to the nature of the violation, the ZHRC is not necessarily the ideal institution to handle such cases. In this regard, the ZHRC decided that there is need for a working relationship between itself and various government and the civil society to ensure advancement of human rights in Zimbabwe [21]. The ZHRC Act and its regulations do not give the Commission absolute enforcement mechanisms. The institution reports to the MoJLPA and is therefore, not independent to act outside the parameters of this parent ministry.

## **6. Conclusion**

The ZHRC is mainly crippled by inadequate budgetary allocation. Additionally, it can be noted that the ZHRC is equally affected by the following administrative and external challenges: inadequate staff; centralization, inaccessibility and invisibility of the ZHRC; misconception and mistrust towards the Commission; lack of political will, delays and hostile political environment; political appointments; the absence sanctioning powers.

If well-funded the Commission can be in the best position to boldly confront the hurdles ahead of it. Majority of the challenges which the ZHRC is facing are beyond the capacity of its management to solve because there have an external origin. However, doing away with the external challenges require government commitment so as to allow the ZHRC to exercise its duties freely and effectively. It was also observed that the Commission is in a dilemma of trying to work with the government and at the same time criticizing the activities of the same government which created it. Both administrative and external challenges are acting as entangled obstacles derailing the full realisation and operationalisation of this human rights institution in Zimbabwe.

The following recommendations, if implemented, will also go a long way in strengthening the work of the ZHRC:

- The government via the Treasury should adequately fund the activities of the ZHRC. The Commission should be financially independent and public funds should not be under direct control of the government.
- The government should provide the necessary resources to enable the Commission to meet its contractual obligations to staff in order to eliminate shortfalls such as risks of demotivated staff members, resignation and litigation. Moreover, the ZHRC should ensure that its members are adequately remunerated in order to maintain a culture of professionalism within the institution. If well-funded the ZHRC should recruit adequate staff.
- The ZHRC should decentralise to other provinces to increase visibility and accessibility. In order for the Commission to increase accessibility it must thrive to open local offices at district and provincial level.
- The ZHRC should be given legally binding powers rather than simply making recommendations. The ZHRC should be capacitated to be a catalyst for change rather than merely a raconteur of the status quo. It must be resourceful, creative, proactive and persistent in promoting solutions to the country's human rights crisis.
- The government must ensure that the selection process of Commissioners must be characterised by merit, openness and transparency. The politicisation of the appointment process should be discarded.



- The ZHRC should allow increased regional and international meetings, and other affiliate bodies meetings by Commissioner/s and the secretariat. Continued exchange learning visits with other NHRIs are very vital for the ZHRC to learn and share experiences.

## References

- [1] B. Goodman and T. Pegram, *Human Rights, State Compliance and Social Change: Assessing Human Rights Institutions*. Cambridge University Press: New York, 2012.
- [2] Constitution of the Republic of Zimbabwe Amendment, *Act of 2013*, no. 20, 2013.
- [3] The International Ecological Engineering Society, "Challenges in Developing an Institutional Framework," *Project Supported by the European Union under the 6th Framework Programme*, 2006.
- [4] A. Chilunjika and B. Mutizwa, "Exploring Factors Militating against the performance of Parastatals in Zimbabwe: The Case of the National Railways of Zimbabwe from 2008-2016," *Journal of Public Administration and Development Alternatives*, vol. 4, no. 2, pp. 41-60, 2019.
- [5] V. Draskovic and A. Lojpur, "The Importance of the Institutional Framework in Regulating Corporate Social Responsibility," *Montenegrin Journal of Economics*, vol. 9, no. 2, pp. 39-46, 2013.
- [6] B. Lindsanaes, L. Lindholt, and K. Yigen, "National Human Rights Institutions, (eds.) Working Papers," *The Danish Centre for Human Rights*, Copenhagen, 2001.
- [7] A. E. Pohjolainen, "The Evolution of National Human Rights Institutions: The Role of the United Nations," *Danish Institute for Human Rights*, Denmark, 2006.
- [8] United Nations Handbook, *National Human Rights Institutions: History, Roles and Responsibilities*. United Nations: New York and Geneva, 2010.
- [9] B. Jensen and Peterson, "Human Rights Commissions" in *Hossain, K. Human Rights Commission and Ombudsman Offices, National experiences throughout the world 805*, 2019.
- [10] M. Mayrhofer, "National Human Rights Institutions and Their Monitoring Function, European Yearbook on Human Rights 2017," *Research Gate*, 2018.
- [11] V. Aichele, *National Human Rights Institutions: An Introduction*. German Institute for Human Rights: Berlin, 2010.
- [12] L. Chiduzwa, *the Zimbabwe Human Rights Commission: Prospects and Challenges for the Protection of Human Rights*. vol. 19, 2015.
- [13] F. B. Khan, "National Humana Rights Institutions and the Challenges of Independence in Kenyan Context," *Published Thesis*, Lund University, 2010.
- [14] C. M. Peter, "Human Rights Commission in Africa: Lessons and Challenges, in Anton, B. and Joseph, D. (eds.), *Human Rights in Africa, Legal Perspectives on their Protection and Promotion*," *Macmillan Education Namibia*, Windhoek, pp. 351-374, 2009.
- [15] J. Matshekga, "Toothless Bulldogs?" the Human Rights Commissions of Uganda and South Africa: A Comparative Study of their Independence," *African Human Rights Law Journal*, vol. 68, no. 71, 2002.
- [16] South African Human Rights Act No. 54 of 1994.
- [17] Zimbabwe Lawyers for Human Rights, "Economic, Social and Cultural Rights in Zimbabwe: Options for Constitutional Protections," *International Human Rights Clinic*, 2018.
- [18] A. Chilunjika and D. E. Uwizeyimana, "Shifts in the Zimbabwean Land Reform Discourse from 1980 to the Present," *African Journal of Public Affairs*, vol. 8, no. 3, pp. 131-144, 2015.
- [19] *Constitution of the Republic of Uganda*, 1995.
- [20] Zimbabwe Human Rights Commission, *Annual Report*. ZHRC: Harare, 2014.
- [21] Zimbabwe Human Rights Commission, *Annual Report*. ZHRC: Harare, 2015.
- [22] V. Langa, "Zimbabwe Human Rights Commission Underfunded," *Newsday*. pp. 24, December. 10, 2015.
- [23] C. Munguma, "The Role of the Zimbabwe Human Rights Commission in the Promotion of Fundamental Rights and Freedoms," *Research Gate*, 2019.
- [24] Zimbabwe Human Rights Commission, *Annual Report*. ZHRC: Harare, 2013.
- [25] Zimbabwe Human Rights Commission, *Act*. vol. 10, no. 30, 2013.
- [26] Zimbabwe Human Rights Commission, *a Baseline Survey on Perception, Attitudes and Understanding on Human Rights in Zimbabwe*. ZHRC: Harare, 2015.

- [27] Zimbabwe Human Rights Commission, *Zimbabwe Human Rights Strategic Plan 2015-2020*. ZHRC: Harare, 2015.
- [28] E. Mushava, *Decentralise ZHRC: Mutoko Villagers*, 2016. [Online]. Available: <http://www.newsday.co.zw/2016/05/decentralise-zhrc-mutoko-villagers/>. [Accessed: January. 22, 2020].
- [29] F. Munyoro, *ZHRC Seeks Legal Powers*, 2014. [Online]. Available: <https://www.herald.co.zw/zhrc-seeks-legal-powers/>. [Accessed: January. 20, 2020].